

SENATE BILL NO. 222

INTRODUCED BY BARKUS

A BILL FOR AN ACT ENTITLED: "AN ACT TRANSFERRING THE RESPONSIBILITY FOR COLLECTING AND ISSUING REFUNDS FOR LOCAL OPTION MOTOR FUEL EXCISE TAX FROM THE DEPARTMENT OF TRANSPORTATION TO COUNTY TREASURERS; REQUIRING RETAIL SELLERS OF GASOLINE IN COUNTIES IN WHICH THE TAX IS IMPOSED TO RENDER MONTHLY STATEMENTS TO THE COUNTY TREASURER; REQUIRING A COUNTY THAT IMPOSES THE TAX TO ESTABLISH A MOTOR FUEL EXCISE TAX ACCOUNT FOR DEPOSIT OF THE TAX REVENUE; PROVIDING METHODS FOR APPORTIONMENT OF THE REVENUE; AMENDING SECTIONS 7-14-301, 7-14-302, 7-14-303, AND 7-14-304, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 7-14-301, MCA, is amended to read:

"7-14-301. Local option motor fuel excise tax authorized -- definitions. (1) A motor fuel excise tax may be imposed within a county:

(a) by the people of the county by initiative; or

(b) by the board of county commissioners by adoption of a resolution and referral to the people.

(2) The motor fuel excise tax must be imposed in increments of 1 cent per gallon and may not exceed 2 cents per gallon. The tax must be imposed upon gasoline sold to the ultimate consumer within the county for use in motor vehicles operated upon public highways, streets, and roads.

(3) The initiative or referendum must specify that the tax is to be collected by the ~~department of transportation~~ county treasurer.

(4) The motor fuel excise tax may not be assessed sooner than 90 days from the date of passage of the initiative or referendum.

(5) ~~Each distributor~~ By the 25th day of each month, each retail seller of gasoline shall render a monthly statement to the ~~department of transportation~~ county treasurer of all gasoline ~~distributed~~ sold during the preceding calendar month in the county in which it is sold to the ultimate consumer and other information that the ~~department~~ county treasurer requires in order to administer the motor fuel excise tax.

~~(6) The information, recordkeeping, and examination of records provisions of Title 15, chapter 70, apply to this part.~~

~~———— (7)(6) The department of transportation county treasurer shall establish procedures to provide a refund to a person who has paid the tax but who can substantiate that the motor fuel was purchased for a use other than on public highways, streets, and roads.~~

~~(6)(7) In this part, the terms "distributor", "gasoline", "motor vehicle", "person", and "use" have the meanings ascribed to them in 15-70-201."~~

Section 2. Section 7-14-302, MCA, is amended to read:

"7-14-302. Use of local motor fuel excise tax revenue. (1) A county or municipality receiving revenue from the tax authorized by 7-14-301 ~~shall~~ may use the revenue derived only for the construction, reconstruction, maintenance, and repair of public streets and roads.

(2) ~~A county shall contract with the department for reimbursement of the actual costs of collection. One percent of the motor fuel excise tax revenue collected in a county is to be reimbursed to the distributor~~ retail seller for the cost of compliance with this part."

Section 3. Section 7-14-303, MCA, is amended to read:

"7-14-303. Allocation of revenue and disposition of funds from county-imposed motor fuel excise tax. (1) A county that imposes a motor fuel excise tax shall establish a motor fuel excise tax account. WHEN ALLOCATING THE TAX UNDER SUBSECTION (2), COUNTY COMMISSIONERS SHALL TAKE INTO ACCOUNT ANY FUNDING REQUESTED BY A TRANSPORTATION DISTRICT IN THE COUNTY.

(2) Revenue derived from a motor fuel excise tax imposed by a county under 7-14-301 must be deposited into the county's motor fuel excise tax account and apportioned among the county and municipalities in the county according to one of the following methods THAT IS MUTUALLY AGREED UPON BY THE COUNTY AND MUNICIPALITIES:

~~(a) in the proportion of motor vehicles registered in the county outside of the municipalities to those registered within the municipalities during the preceding year; or~~

~~———— (b) as determined by an interlocal agreement by distributing 50% to the county and 50% to the incorporated cities and towns within the county apportioned on the basis of population. The distribution to a city or town must be determined by multiplying the amount of money available by the ratio of the population of the~~

city or town to the total county population. The distribution to the county must be determined by multiplying the amount of money available by the ratio of the population of unincorporated areas within the county to the total county population.

(b) by basing the distribution upon the proportion of road miles outside municipalities and street miles within each municipality as a ratio of total road and street miles in the county, using the most recent public road miles available from the department of transportation; or

(c) by using any other method agreed upon by the affected county and municipalities as determined by an interlocal agreement.

~~(2)(3)~~ All taxes, interest, and penalties collected by the ~~department of transportation~~ county treasurer under this part ~~shall~~ must be promptly transmitted to the state treasurer who shall deposit such funds in the state special revenue fund to the credit of the department of transportation account. Such funds shall be paid quarterly by the state treasurer directly to the county in which the tax was imposed deposited into the account established in subsection (1)."

Section 4. Section 7-14-304, MCA, is amended to read:

"7-14-304. Lien for Collection of delinquent tax -- interest and penalty -- statute of limitations. (1) The lien provisions of 15-70-211 apply to all delinquent motor fuel excise taxes, penalties, and interest due from a distributor under this part. Such a lien has the same force and effect as a lien for delinquent gasoline license tax imposed under Title 15, chapter 70, part 2. Motor fuel taxes imposed pursuant to 7-14-301 and collected by a retailer but not transmitted to the county treasurer are delinquent after the date that they are due to the county treasurer and become a lien upon all real and personal property owned by the retail seller in the county. The county shall collect the delinquent motor fuel taxes in the manner that delinquent personal property taxes are collected.

(2) Penalties and interest for any delinquent motor fuel excise tax are the same as provided for the gasoline license tax under Title 15, chapter 70, part 2.

(3) Any action to recover a delinquent motor fuel excise tax must be initiated within 3 years from the due date of the return or the date of filing the return, whichever period expires later. Upon discovery of fraud, an action must be initiated within 3 years of the discovery."

NEW SECTION. **Section 5. Effective date.** [This act] is effective July 1, 2005.

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